

August 6, 1998

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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**REVISED REPORT AND DECISION ON APPLICATION FOR PRELIMINARY
PLAT APPROVAL**

SUBJECT: Department of Development and Environmental Services File No. **L97P0010**

DANBURY ESTATES DIVISION II
Preliminary Plat Application

Location: Generally between 257th Place Southeast and
259th Place Southeast (if extended) and east of 231st Place

Applicant:	Michael Miller Danbury Group 14410 Bel-Red Road Bellevue, WA 98007	<i>Represented by:</i> Robert D. Johns, Esq. 701 Fifth Ave. #3600 Seattle, WA 98104 Phone: 206-223-0152
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SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Grant Preliminary Approval, subject to conditions
Department's Final:	Grant Preliminary Approval, subject to conditions
Examiner:	Grant Preliminary Approval, subject to conditions

EXAMINER PROCEEDINGS:

Pre-Hearing Conference:	April 7, 1998
Hearing Opened:	May 15, 1998
Hearing Closed:	May 15, 1998
Hearing Reopened:	August 3, 1998
Hearing Closed:	August 3, 1998

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Road standards

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer:	Michael Miller, Danbury Group, 14410 Bel-Red Road, Bellevue, WA 98007
Engineer:	Triad Associates, Inc. 11814 – 115 th Avenue NE, Kirkland, WA 98034
Location:	Generally between 257 th Place SE and 259 th Place SE (if extended) and east of 231 st Place
STR:	11-24-06
Zoning:	R-6
Acreage:	6.66
Number of Lots:	16
Density:	2.42 dwelling units per acre
Typical Lot Size:	Ranges from approximately 9,000 to 13,700 square feet
Proposed Use:	Single-family detached dwellings
Sewage Disposal:	Sammamish Plateau Water and Sewer
Water Supply:	Sammamish Plateau Water and Sewer
Fire District:	King County Fire District No. 10
School District:	Issaquah School District No. 411
Complete Application Date:	March 13, 1997

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the May 15, 1998 public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions.

3. This preliminary plat application seeks to re-divide the 6.6 acre Tract F of Danbury Estates into 16 lots for single-family residential development. A mitigated determination of nonsignificance was issued by King County DDES on February 24, 1998. A timely appeal of the MDNS was filed by area resident Tom Harman, but this appeal has been withdrawn. A public hearing on the Danbury Estates Division II application was held on May 15, 1998 with a decision issued thereon on May 21, 1998. Subsequent to appeal of the May 21, 1998 decision by the Tibbett's Station Homeowner's Association, proposed Ordinance 98-418 was introduced and the public hearing thereon conducted on August 3, 1998, at which time the previous record was incorporated by reference and new testimony received. The instant Report and Decision replaces the one issued May 21, 1998.

4. Neighborhood concerns expressed at the public hearing focused primarily on the smaller lot sizes

required by the zoning and upon potential traffic impacts to the residents of Tibbett's Station Division 2 resulting from the extension of 257th Place Southeast through this plat. Although Tibbett's Station residents would prefer not to see a road connection made, the secondary access will support neighborhood circulation and avoid the creation of permanent cul-de-sac systems which exceed King County Road Standards requirements. Since Danbury Estates Division II is a small in-fill development, the amount of traffic it will generate is relatively minimal and falls well below applicable King County thresholds for impact analysis. In order to reduce neighborhood impacts, the applicant has agreed to a condition requiring all construction traffic to the site to be routed away from Tibbett's Station roadways.

5. Tibbett's Station residents are primarily concerned that completion of a road connection along 257th Place Southeast between Southeast 32nd Place and Southeast 31st Place will introduce substantial new traffic into the Tibbett's Station neighborhood. Because the neighborhood lacks sidewalks and roads are constructed at less than subcollector width, they are concerned for the safety of neighborhood children who walk to local schools or wait for school buses at the edge of the roadway. Most commuter traffic in this area is to and from the west, and the applicant's traffic study assigns all western-oriented traffic to the Southeast 31st Place route, with only a handful of east-bound trips preferring the 257th Place Southeast option. This appears to be a rational trip assignment for west-bound traffic inasmuch as the distance from the site to the intersection of Issaquah-Beaver Lake Road with East Beaver Lake Drive is nearly 400 feet shorter along Southeast 31st Place than following the alternative 257th Place route through Tibbett's Station. In addition, the Tibbett's Station route requires traffic to make 4 turns as opposed to 2 using the Southeast 31st Place access, and is counterintuitive because it requires west-bound traffic to travel east.

6. The desire of Tibbett's Station residents for a 20-foot wooded buffer along the southern boundary of Danbury Estates Division II is certainly understandable from an aesthetic standpoint but is unsupported by applicable County regulations. The zoning code requires no buffering between similar single-family uses, and there are no sensitive areas along the southern boundary of Danbury Estates Division II to warrant creation of a sensitive areas tract. Allegations of wind throw problems were vague and unsupported by technical analysis. While the shadow plat design proposed by DDES staff and the applicant is a somewhat confusing mechanism, it represents a creative solution to the conflict between current zoning density requirements and the restrictive covenants applicable to the property. There can be no assurance that no shadow lots will ever be built, but it remains the Examiner's opinion that once the Danbury II lots are constructed the motivation to further short plat the parcels will be very small.

7. Drainage from this small plat will also be required to comply with the restrictive treatment and detention requirements designed to protect the water quality of Lake Sammamish. Further, the on-site soils appear to be capable of infiltrating most individual lot run-off, so the quantity of surface flows actually leaving this site should be quite limited.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.

2. The conditions of approval recommended herein, including dedications and easements, will provide improvements which promote legitimate public purposes, are necessary to serve the subdivision and are

proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

DECISION:

The preliminary plat of Danbury Estates Division II, as revised and received on March 12, 1998, is APPROVED, subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the minimum density requirements of the R-6 zone classification per KCC 21A.12.060.B.1 All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King Count Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the plat to meet the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval that represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design manual (SWDM) must also be satisfied during engineering and final review.
 - A. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - B. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - C. The following note shall be shown on the final recorded plat:
“All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #_____ on file with DDES and/or the Department of Transportation. This plan shall be submitted

with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."

D. Core Requirement No. 1: Discharge at the Natural Location. The applicant has received approval for the requested diversion of surface water within the development. (Variance L97V0126). The conditions for variance approval shall be satisfied during design and review of the project engineering plans.

E. Core Requirement No. 3: Runoff Control. Storm water runoff control shall be provided using enhanced detention standards as required by the P-suffix conditions for the property. The site is located within the area designated for Detention Standard 2 (Stream Protection Standard). Drain-age facilities shall be designed so that the post-development 2-year storm event is released at one-half of the pre-developed 2-year rate; the post-development 10-year storm event is released at the pre-developed 2-year rate; and the post-development 100-year storm is released at the pre-developed 10-year rate. The design volume of the detention facility shall be increased by a 30% safety factor.

As specified in SEPA mitigations for this project, special water quality facilities are required. Compliance with the water quality designs can be used in lieu of the biofiltration requirements in the design manual. The runoff control facilities for the project shall be located in a separate tract and dedicated to King County. The size of the proposed drainage tracts may need to increase to accommodate the required design volumes.

8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:

A. SE 31st Place shall be improved as an urban minor access road.

B. 257th Place shall be improved as an urban street connecting with the existing road stub at the south property line.

C. As required by KCRS 5.03, street trees should be included in the design of all road improvements.

D. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.

9. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.

10. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads,

“All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid.” If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.

11. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

12. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowner’s association. This shall be stated on the face of the final plat.

13. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children’s play equipment, picnic table[s], benches, etc.).

A. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.

B. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item A, shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.

C. A performance bond for recreation space improvements shall be posted prior to recording of the plat.

A homeowner’s association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation and/or open space area(s).

14. As proposed by the applicant the side yard setbacks between lots 2-3; 4-5; 6-7; 11-12; 13-14; 15-16; shall be increased to 15 feet, so that access to future lots may not be precluded.

15. As proposed by the applicant, the 20-foot NGPE shall be retained along the north boundary of the site. A note to this effect shall be shown on the final plat.

16. The following conditions shall apply to implement the P-suffix conditions to this property:

A. Seasonal Clearing: Clearing and grading shall not be permitted between October 1 and March 31, unless otherwise approved by DDES (1993 East Sammamish Community Plan).

17. Construction-related traffic shall access the site via SE 31st Place only.

18. The following have been established by SEPA as necessary requirements to mitigate the adverse environmental impacts of this development. The applicants shall demonstrate compliance with these items

prior to final approval.

Runoff from impervious surfaces subject to vehicle use or storage and/or transfer of chemicals, petroleum products or wastes must be treated to remove 50% of the annual average total phosphorus concentration before discharge to Lake Sammamish or its tributaries (either natural or engineered). This goal may be met by treating the water quality flow (defined below) with one of the following three on-site treatment options. The design of the facilities shall be approved by King County Water and Land Resources Division (WLRD). Other options that provide an equivalent level of pollutant removal are also acceptable, but must be approved by WLRD.

Option 1: A large wetpond having a dead storage volume of at least 4.5 times the runoff from the mean annual storm. The mean annual storm is determined by dividing the annual rainfall (in inches) by the number of storms in a typical year. In the Lake Sammamish area, the mean annual storm ranges from about 0.47 to 0.56 inches.

Option 2: A large sand filter treating 95% of the annual average runoff volume as computed by the KCRTS time series. If a detention facility does not precede the sand filter, a presettling pond or vault must be provided prior to the sand filter. The presettling pond must be sized to hold a volume of 0.75 times the runoff from the mean annual storm.

Option 3. A two-facility treatment train, with the first facility sized to treat the water quality flow (see below), and the second facility a sand filter sized to treat the flow from the first facility or 90% of the annual average runoff volume as computed by the KCRTS time series.

The water quality flow is defined as one of the following:

- The flow generated by 64% of the 2-year 24 hour precipitation (SBUH model),
- The flow generated by 60% of the developed 2-year peak flow rate (KCRTS model), or
- The flow associated with 95% of the annual average runoff volume in the KCRTS time series (typically restricted to sand filter sizing).

This condition is in lieu of the biofiltration required under Core Requirement #3 in the King County Surface Water Design Manual. King County Comprehensive Plan Policies NE-302, NE-310, and NE-313.

ORDERED this 6th day of August, 1998.

Stafford L. Smith, Deputy
King County Hearing Examiner

TRANSMITTED this 6th day of August, 1998, to the parties and interested persons on the attached list.

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) *on or before August 20, 1998*. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before August 27, 1998*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal. Appeals previously filed need not be resubmitted but may be supplemented or amended prior to the appeal statement deadline.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE MAY 15, 1998 AND AUGUST 3, 1998 PUBLIC HEARINGS ON KING COUNTY
DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO.L97P0010–
DANBURY ESTATES DIVISION II:

Stafford L. Smith was the Hearing Examiner in this matter. Robert Johns, Nadine Zackrisson, Mark Brandt, Dave Gray, David Olwell, Thomas Harman, Jennifer Pomeroy, Kari Dart, Greg Manciangli, Pete Dye/DDES and Kim Claussen/DDES participated in the hearings.

On May 15, 1998 the following exhibits were offered and entered into the hearing record:

- Exhibit No. 1 Department of Development and Environmental Services File No. L97P0010
- Exhibit No. 2 Department of Development and Environmental Services preliminary report, dated May 15, 1998 for Danbury Estates Phase II public hearing (L97P0010)
- Exhibit No. 3 Application, dated March 13, 1997
- Exhibit No. 4 Environmental check-list, dated March 13, 1997
- Exhibit No. 5 Mitigated determination of non-significance, dated February 24, 1998
- Exhibit No. 6 Affidavit of Posting indicating April 7, 1998 as date of posting and April 9, 1998 as the date the affidavit was received by DDES
- Exhibit No. 7 Plat map, dated March 12, 1998
- Exhibit No. 8 Kroll land use map, 961 East & 962 West
- Exhibit No. 9 Assessors map NE 11-24-6; NW 12-24-6
- Exhibit No. 10 SEPA appeal letter from Tom Harmon, dated March 17, 1998
- Exhibit No. 11 Level 1 Drainage Analysis, by Triad Associated, dated March 11, 1997
- Exhibit No. 12 Level 3, Drainage Analysis, by Triad Associates, dated October 8, 1997
- Exhibit No. 13 SWM variance (file no. L97V0126), dated November 7, 1997
- Exhibit No. 14 Drainage easement w/ Triad cover letter received December 30, 1997

- Exhibit No. 15 Triad letter, dated December 3, 1997 (downstream)
- Exhibit No. 16 T. Harmon letter (dated April 29, 1998) withdrawal of SEPA appeal
- Exhibit No. 17 Final recorded plat of Danbury
- Exhibit No. 18 LOS & Trip distribution by TPE, with cover letter from Pacific Properties, dated April 28, 1998
- Exhibit No. 19 Letter, dated May 15, 1998, from David and Jennifer Pomeroy, to Hearing Examiner
- Exhibit No. 20 Written copy of verbal testimony/Dave Gray
- Exhibit No. 21 Petition, presented by Jennifer Pomeroy

On August 3, 1998 the following exhibits were offered and entered into the hearing record:

- Exhibit No. 22 Tibbett's Station Homeowner's Association summary of information
- Exhibit No. 23 Copy of page 11 of King County Road Standards 1993
- Exhibit No. 24 Copy of page 263 of Trip Generation 6th Edition Volume 1 of 3
- Exhibit No. 25 2 photos showing "Bus stop at end of 258th Avenue SE"
- Exhibit No. 26 Tibbett's Station Homeowner's Association "Appeal of the Decision of the Hearing Examiner Regarding the Proposed Plat of Danbury Phase II", dated June 11, 1998